

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MENTAL HYGIENE LEGAL SERVICE,

Plaintiff,

- and -

SHAWN SHORT,

Plaintiff-Intervenor,

- against -

ELIOT SPITZER, in his official capacity as Governor of the State of New York, ANDREW CUOMO, in his official capacity as Attorney General of the State of New York, MICHAEL HOGAN, in his official capacity as Commissioner of the New York State Office of Mental Health, DIANA JONES RITTER, in her official capacity as Commissioner of the New York State Office of Mental Retardation and Developmental Disabilities, and BRIAN FISCHER, in his official capacity as Commissioner of the New York State Department of Correctional Services,

Defendants.

Docket Number
07-CV-2935
(GEL) (THK)

**NOTICE OF DEFENDANTS' MOTION TO
DISMISS COMPLAINT PURSUANT TO FRCP 12(b) (6)**

TO:

SHEILA E. SHEA
Director, Mental Hygiene
Legal Service for the Third
Judicial Department (HOLLIE
S. LEVINE, of Counsel)
Attorney for Plaintiff-
Intervenor
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SIDNEY HIRSCHFELD
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Legal Service for the Second
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PLEASE TAKE NOTICE that upon the accompanying memorandum of law and upon all prior pleadings and proceedings herein defendants ELIOT SPITZER, Governor, DIANA JONES RITTER, Commissioner of the Office of Mental Retardation and Developmental Disabilities, and BRIAN FISCHER, Commissioner of the Department of Correctional Services, will move this Court, before the Honorable Gerard E. Lynch, United States District Judge, at the United States Courthouse, United States District Court for the Southern District of New York, located at 500 Pearl Street, New York, New York 10007, at a date and time to be determined by the Court, for an order pursuant to Rule 12(b) (6) of the Federal Rules of Civil Procedure dismissing the Complaint against them in its entirety, together with such other and further relief as the Court may deem just and proper in the circumstances.

PLEASE TAKE FURTHER NOTICE that pursuant to Rule 6.1 (b) (2) of the Local Civil Rules of the United States District Court for the Southern District of New York and the Individual Practices of the Honorable Gerard E. Lynch, United

States District Judge, (which require that two courtesy copies of all motion papers should be submitted to chambers at the time that reply papers, if any, are served), three copies of plaintiff's answering papers, if any, should be served upon the undersigned no later than November 27, 2007, and defendants' reply papers, if any, will be served on counsel for plaintiff no later than December 4, 2007.

Dated: New York, New York
November 8, 2007

ANDREW M. CUOMO
Attorney General of the State of
New York
Attorney for Defendants
By:

EDWARD J. CURTIS, JR.
Assistant Attorney General
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Tel. (212) 416-8641

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SHAWN SHORT,

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Defendants.

NOTICE OF MOTION

ANDREW M. CUOMO

Attorney General of the State of
New York

ATTORNEY FOR DEFENDANTS

BY: EDWARD J. CURTIS, JR.

Assistant Attorney General

120 Broadway, 24TH Floor

New York, New York 10271

(212) 416 - 8641

Personal Service of a copy of the within is admitted this

_____ day of _____ 2007
